

Notice of Allowability

Application No.

10/525,568

Applicant(s)

BRILL ET AL.

Examiner

Art Unit

Michael P. Stafira

2886

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 6/4/2007.
2. ☒ The allowed claim(s) is/are 15-17.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 7/19/2007
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Allowable Subject Matter

2. Claims 15-17 are allowed over the prior art of record.
3. The following is an examiner's statement of reasons for allowance:

Regarding claim 15, the prior art fails to disclose or make obvious an optical system for use in measurement in a sample having the light directing assembly defines an additional illumination/detection channel for directing the incident beam onto the sample along an axis perpendicular to the sample's plane and directing a reflection of the perpendicular incident beam to the detector, and in combination with the other recited limitations of claim 15.

Regarding claim 16, the prior art fails to disclose or make obvious an optical system for use in measurement in a sample having the light directing assembly defines an additional illumination/detection channel for directing the incident beam onto the sample along an axis perpendicular to the sample's plane and directing a reflection of the perpendicular incident beam to the detector, the additional illumination/detection channel being formed by a beam splitter spatially separating the perpendicular incident and reflected beams, and first and second planar mirrors, each being additionally shiftable between its operative and inoperative positions being, respectively, in and out of the optical path of the respective beam, such that when the first and

Art Unit: 2886

second planar mirrors are in their operative positions, the incident and returned beams propagate through the illumination and the detection channels, respectively, and when the first and second planar mirrors are in their inoperative states, the incident and returned beams propagate through the additional illumination/detection channel, and in combination with the other recited limitations of claim 16.

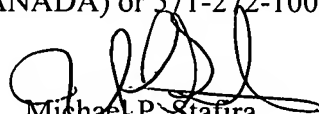
Regarding claim 17, the prior art fails to disclose or make obvious an optical system for use in measurement in a sample having wherein the light directing assembly defines an additional illumination/detection channel for directing the incident beam onto the sample along an axis perpendicular to the sample's plane and directing a reflection of the perpendicular incident beam to the detector, the additional illumination/detection channel being formed by a beam splitter spatially separating the perpendicular incident and reflected beams, and first and second planar mirrors, the first mirror being located in the optical part of the incident beam and being shiftable between its operative and inoperative positions being, respectively, in and out of the optical path of the incident beam, and the second planar mirror being accommodated in the optical part of the returned beam and being shiftable between its operative and inoperative positions being, respectively, in and out of the optical path of the returned beam, such that when the first and second planar mirrors are in their operative positions, the incident and returned beams propagate through the illumination and the detection channels, respectively, and when the first and second planar mirrors are in their inoperative states, the incident and returned beams propagate through the additional illumination/detection channel, and in combination with the other recited limitations of claim 17.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Stafira whose telephone number is 571-272-2430. The examiner can normally be reached on 4/10 Schedule Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tarifur Chowdhury can be reached on 571-272-2800 ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Michael P. Stafira
Primary Examiner
Art Unit 2886

July 27, 2007

Application/Control Number: 10/525,568

Page 5

Art Unit: 2886